

## **Assembly Bill No. 564**

### **CHAPTER 549**

An act to add and repeal Article 5.7 (commencing with Section 18755) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 7, 2011. Filed with  
Secretary of State October 7, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 564, Smyth. Income taxes: voluntary contributions: Municipal Shelter Spay-Neuter Fund.

Existing income tax laws allow individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would allow a taxpayer to designate on a tax return that a specified amount in excess of his or her tax liability be transferred to the Municipal Shelter Spay-Neuter Fund, which would be created by this bill. However, the bill would provide that a voluntary contribution designation for this fund may not be added on the tax return until another voluntary contribution designation is removed from the return.

This bill would provide that all money contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the Department of Food and Agriculture for distribution of grants to eligible municipal shelters on a first-come-first-served basis, as specified, for the purposes of providing low cost or free spay-neuter services and for administrative costs. This bill would require eligible municipal shelters, as defined, in order to receive a grant, to file an application with the Department of Food and Agriculture, as specified.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return, or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount for subsequent taxable years.

This bill would make legislative findings and declarations regarding the importance of informing taxpayers that they may make voluntary contributions to certain funds or programs on state income tax returns, and would state the intent of the Legislature to encourage all persons who prepare state income tax returns to inform their clients in writing, prior to the completion of any state income tax return, that they may make a contribution to any voluntary contribution checkoff on the state income tax return.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares that it is important to inform taxpayers that they may make voluntary contributions to certain funds or programs, as provided on the state income tax return. The Legislature further finds and declares that many taxpayers remain unaware of the voluntary contribution checkoffs on the state income tax return. Therefore, it is the intent of the Legislature to encourage all persons who prepare state income tax returns, including tax preparers, to inform their clients in writing, prior to the completion of any state income tax return, that they may make a contribution to any voluntary contribution checkoff on the state income tax return if they so choose.

SEC. 2. Article 5.7 (commencing with Section 18755) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 5.7. Municipal Shelter Spay-Neuter Fund

18755. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Municipal Shelter Spay-Neuter Fund established by Section 18755.1. That designation is to be used as a voluntary contribution on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) When another voluntary contribution designation is removed from the tax return, or as soon as space is available, the Franchise Tax Board shall revise the form of the return to include a space labeled the "Municipal Shelter Spay-Neuter Fund" to allow for the designation permitted. The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to provide low cost or free spay-neuter services associated with a municipal shelter in California.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18755.1. There is hereby established in the State Treasury the Municipal Shelter Spay-Neuter Fund to receive contributions made pursuant to Section

18755. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18755 to be transferred to the Municipal Shelter Spay-Neuter Fund. The Controller shall transfer from the Personal Income Tax Fund to the Municipal Shelter Spay-Neuter Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18755 for payment into that fund.

18755.2. (a) All money transferred to the Municipal Shelter Spay-Neuter Fund, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) (A) To the Department of Food and Agriculture for distribution of grants to eligible municipal shelters for the purposes of providing low cost or free spay-neuter services. The department may use up to 5 percent of the money allocated to municipal shelters for administrative costs incurred in connection with the Municipal Shelter Spay-Neuter Fund.

(B) For the purposes of this article, “eligible municipal shelter” means a city or county animal control agency or shelter that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section, and offers spay and neuter services for dogs and cats owned by individual members of the public. The State Department of Public Health shall, upon the written request of the Department of Food and Agriculture, make available information regarding whether a city or county animal control agency or shelter is current on its reporting requirements pursuant to this subparagraph.

(b) (1) Grants distributed pursuant to this article shall be made available for the purposes of providing spay and neuter services and programs for dogs and cats owned by individual members of the public.

(2) A grant shall not be made, and grant funds shall not be used, to spay or neuter any animal that is impounded by an eligible municipal shelter. If the Department of Food and Agriculture determines that an eligible municipal shelter has misused its grant funds, that shelter shall no longer be eligible for grants distributed pursuant to this article.

(c) The Department of Food and Agriculture shall do all of the following with respect to the distribution of grants:

(1) Accept applications for grants from eligible municipal shelters.

(2) Process and approve, or reject all applications on a first-come-first-served basis, in the following manner:

(A) Eligible municipal shelters processing fewer than 5,000 dogs and cats each year shall receive up to seven thousand five hundred dollars (\$7,500), if funds are available.

(B) Eligible municipal shelters processing between 5,000 and 25,000 dogs and cats each year shall receive up to fifteen thousand dollars (\$15,000), if funds are available.

(C) Eligible municipal shelters processing more than 25,000 dogs and cats shall receive up to twenty-two thousand five hundred dollars (\$22,500), if funds are available.

(3) Make applications available to eligible municipal shelters on the first day of the second calendar year after the Municipal Shelter Spay-Neuter Fund first appears on the tax return.

(d) In order to be eligible for grants authorized by this article, eligible municipal shelters shall file an application with the Department of Food and Agriculture, in the form and manner as specified by the Department of Food and Agriculture.

(e) Any grants distributed under this article create an additional funding source for spay and neuter services and programs for eligible municipal shelters and shall be used to supplement, not supplant, other funding sources for these services and programs.

(f) Funds obtained by a municipality under a grant from the Municipal Shelter Spay-Neuter Fund may be used to pay for free or low-cost spay and neuter services provided to the municipality by outside agencies that are under contract or in a demonstrated partnership with that municipality.

18755.3. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the Municipal Shelter Spay-Neuter Fund on the tax return, and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) (1) By September 1 of the second calendar year and by September 1 of each subsequent calendar year that the Municipal Shelter Spay-Neuter Fund appears on the tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Department of Food and Agriculture of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the Municipal Shelter

Spay-Neuter Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Municipal Shelter Spay-Neuter Fund on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1, multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.